

AUG 22 2011

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF BILL BARRETT CORPORATION FOR AN ORDER POOLING ALL INTERESTS, INCLUDING THE COMPULSORY POOLING OF THE INTERESTS OF BONANZA ROYALTIES, LLC AND EL PASO E&P COMPANY, L.P., IN THE DRILLING UNIT ESTABLISHED FOR THE PRODUCTION OF OIL AND ASSOCIATED GAS AND HYDROCARBON FROM THE LOWER GREEN RIVER-WASATCH FORMATIONS COMPRISED OF ALL OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 6 WEST, USM, DUCHESNE COUNTY, UTAH

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

Docket No. 2011 - 013

Cause No. 139-86

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, July 27, 2011, at 1:00 p.m., in the Auditorium of the Utah Department of Natural Resources Building in Salt Lake City. The following Board members were present and participated at the hearing: Chairman James T. Jensen, Jean Semborski, Ruland J. Gill, Jr., Kelly L. Payne, Carl F. Kendell and Chris D. Hansen. Board Member Jake Y. Harouny was unable to attend. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner Bill Barrett Corporation ("BBC") were Clint W. Turner – President of Turner Petroleum Land Services, Inc. and Contract Landman for BBC, David M. Watts – Landman for BBC, and Brent A. Murphy – Sr. Drilling Engineer for BBC. Mssrs. Watts and Murphy were recognized by the Board as experts in

petroleum land management and petroleum engineering, respectively, for purposes of this Cause. Frederick M. MacDonald, Esq., of and for Beatty & Wozniak, P.C., appeared as attorney for BBC.

Testifying on behalf of the Division of Oil, Gas and Mining (the “Division”) was Brad Hill – Oil & Gas Permitting Manager. Steven F. Alder, Esq., Assistant Attorney General, appeared as attorney on behalf of the Division. The Division filed a staff memorandum in the Cause on July 21, 2011. At the conclusion of its presentation-in-chief, the Division expressed its support for the granting of BBC’s Request for Agency Action dated June 13, 2011 (the “Request”), as conformed to the testimony and other evidence provided at the hearing.

No other party filed a response to BBC’s Request and no other party appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

FINDINGS OF FACT

1. BBC is a Delaware corporation in good standing, with its principal place of business in Denver, Colorado. BBC is duly qualified to conduct business in the State of Utah, and is fully and appropriately bonded with all relevant Federal, Indian and State of Utah agencies.

2. Under the Order entered on September 27, 1978, in Cause No. 139-17 (the “139-17 Order”), as modified by the Orders entered on April 17, 1985 in Cause No. 139-42 (the “139-42 Order”), entered on June 18, 2007 in Cause No. 139-77 (the “139-77 Order”) and entered on December 31, 2008 in Cause No. 139-84 (the “139-84 Order”) (the 139-17, 139-42, 139-77 and 139-84 Orders collectively hereinafter the “139 Series Orders”), the Board established the entirety of Section 5, Township 4 South, Range 6 West, USM, Duchesne County, Utah (“Subject Section 5”), as a drilling unit for the production of oil and associated gas and hydrocarbons from the Lower Green River-Wasatch formations, defined in the 139 Series Orders as:

The interval from the top of the Lower Green River formation (TGR₃ marker) to the base of the Green River-Wasatch formations (top of Cretaceous), which base is defined as the stratigraphic equivalent of the Dual Induction Log depths of 16,720 feet in the Shell-Ute 1-18B5 well located in the S½NE¼ of Section 18, Township 2 South, Range 5 West, U.S.M., and 16,970 feet in the Shell-Brotherson 1-11B4 well located in the S½NE¼ of Section 11, Township 2 South, Range 4 West, U.S.M.

(the “Drilling Unit”), and authorized up to four wells for such unit, to be located no closer than 660 feet from a unit boundary and 1,320 feet from another well producing in the same formation.

3. Subject Section 5 is an irregular section comprised of lots, patented mining claims and quarter-quarter sections totaling 641.84 acres, as depicted on BBC’s Exhibit 3 admitted into evidence.

4. Mineral ownership in the Drilling Unit is divided into the following five tracts:

<u>Tract</u>	<u>Lands</u>	<u>Acreage</u>	<u>% of Drilling Unit</u>
I	Lots 1-8, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Tribal)	508.28	79.191076%
II	Lot 9 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ (fee)	79.99	12.462608%
III	W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ (fee)	20	3.116041%
IV	E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ (fee)	20	3.116041%
V	MS6247 – Tenderfoot Lode Patented Mining Claim (6.89), and that portion of MS6248 – Cleveland Lode Mining Claim – lying within Section 5 (6.68) (fee)	<u>13.57</u>	<u>2.114234%</u>
Total -		641.84	100%

5. The entirety of Tracts I and II are under lease and/or an exploration and development agreement to BBC and Ute Upstream Holdings, LLC (“Ute Upstream”). In Tracts III and IV, QEP Energy Company (“QEP”) owns 50% of the minerals, but there is a dispute as to whether any or all of said interest is unleased or leased instead to El Paso E&P Company, L.P. (“El Paso”). To the extent unleased, QEP’s interest is subject to a joint operating agreement, the terms which provide for the payment of a royalty to the unleased owner. In Tract III, an additional 48.333333% of the minerals are under lease to BBC and Ute Upstream and an additional 1.666667% of the minerals is under lease to El Paso. In Tract IV, Croff Enterprises, Inc. d/b/a Croff Oil Company (“Croff”) owns 4.66667% of the

minerals, which is unleased but subject to a joint operating agreement, the terms of which provide for the payment of a royalty to the unleased owner, an additional 29.66667% of the minerals are under lease to BBC and Ute Upstream, and an additional 15.66666% of the minerals are under lease to El Paso. Each fee lease grants to the respective lessee the unilateral right to pool the lease, including the lessor's interest thereunder.

6. BBC, Ute Upstream, El Paso, QEP and Croff have executed one or more joint operating agreements covering the Drilling Unit, pursuant to which BBC is named as Operator and pursuant to which said parties have collectively voluntarily pooled their working interests. All of said joint operating agreements provide for a 150%/450% non-consent penalty except the one with QEP, which instead provides for a 100%/300% non-consent penalty. This equates to 97.885766% of the Drilling Unit being under lease and the working interest relating thereto voluntarily pooled.

7. Title to all of the minerals in Tract V is vested in Bonanza and is currently unleased. Its unleased interest equates to 2.114234% of the Drilling Unit.

8. In accordance with an application for permit to drill approved by the Utah Division of Oil, Gas and Mining, BBC spud the 5-5-46 BTR Well at a location 1,718 feet FNL and 640 feet FWL in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of subject Section 5 on December 7, 2007 and completed it as a producing oil well on March 11, 2008, with first production achieved on March 14, 2008. BBC spud the 14-5-46 BTR Well at a location 930 feet FSL and 1567 FWL in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of subject Section 5 on June 6, 2010 and completed it as a

producing oil well on July 31, 2010, with first production achieved on August 3, 2010. Both wells have and continue to produce from intervals within the Lower Green River-Wasatch formations as defined in the 139 Series Orders and outlined above.

9. At the time the 5-5-46 BTR Well was spud, it was erroneously believed that Bonanza's interest in the Drilling Unit was subject to an existing lease held by production from a well located in adjacent Section 4. Subsequent to the drilling of the 5-5-46 BTR Well, a title examination was conducted which confirmed that lease expired and the unleased status of Bonanza's interest in Tract V of the Drilling Unit.

10. Commencing on November 6, 2007, and again between July 21, 2009 and October 14, 2009, BBC, through its contract landmen, contacted and made good faith offers to Bonanza for the leasing of its interest in the Drilling Unit, to which Bonanza never accepted or otherwise proposed a counter-offer. In fact, Bonanza stated in a telephone call to BBC's contract landmen that it was not interested in doing anything with BBC.

11. BBC, in Letters dated May 4, 2010 and August 11, 2010, respectively, sent certified mail with confirmed receipt, provided Bonanza the written opportunity to proportionately participate in the 5-5-46 BTR Well at 100% of costs, even though the well had already been drilled and producing for over two years, by paying said costs as reflected on an enclosed "actual cost" authority for expenditure ("AFE") and signing an enclosed joint operating agreement. Bonanza never responded.

12. BBC, in Letters dated May 4, 2010 and August 11, 2010, respectively, sent certified mail with confirmed receipt, provided to Bonanza the written opportunity to proportionately participate in the 14-5-46 BTR Well at 100% costs as reflected on an enclosed "estimated cost" AFE and by signing the same JOA referenced in Paragraph 10 above. Again, Bonanza never responded.

13. BBC exercised good faith in attempting to secure from Bonanza either a lease or its participation as an unleased owner in the drilling and operation of the 5-5-46 BTR and 14-5-46 BTR Wells, but no such agreements were reached. As a consequence, no agreement for the voluntary pooling of Bonanza's interest was reached either.

14. The 5-5-46 BTR Well was only the third well drilled at the time by BBC in its Black Tail Ridge Prospect. The first well drilled on the Drilling Unit, the Peterson 1-5D6 Well, produced 44,133 bbls. of oil between 1985 and its plugging and abandonment in 2003. Wells in adjacent Section 33 of Township 3 South, Range 6 West, and adjacent Section 4 of the same township had cumulatively produced in excess of 1.5 million bbls. oil. In addition, both the 5-5-46 BTR and 14-5-46 BTR Wells are located on the western edge of the Black Tail Ridge Prospect. Thus, the risk assumed by BBC and the other participating working interest owners was whether previously untapped zones would be intersected or instead would the wells tap zones already depleted.

15. Given the factual findings outlined in Paragraphs 5, 11 and 14 above, and based on the other testimony provided at the hearing, the risk assumed by BBC and the

other participating working interest owners in the drilling of the 5-5-46 BTR and 14-5-46 BTR Wells justifies a 300% risk compensation award (non-consent penalty).

16. The terms and conditions of the joint operating agreement, admitted into evidence at the hearing as BBC's Exhibit 15 and attached hereto and by this reference incorporated herein, are justified, fair and reasonable, and are appropriate to govern the relationship between BBC, as Operator of the Drilling Unit, and Bonanza, as a Non-Operator, as to the 5-5-46 BTR and 14-5-46 BTR Wells and the Drilling Unit to the extent not inconsistent with this Order.

17. The average weighted landowner's royalty for the Drilling Unit is 18.537358% before 350,000 bbls. of oil are produced and 21.975673% after 350,000 bbls. of oil are produced.

18. An interest rate charge of prime rate in effect at JP Morgan Chase Bank plus 1% is justified, fair and reasonable.

19. Estimated plugging and abandonment costs of \$75,000 per well based on 100% working interest ownership are justified, fair and reasonable.

20. The actual cost of drilling the 5-5-46 BTR Well was \$5,364,098 and the actual cost of drilling the 14-5-46 BTR Well was \$3,528,180, each based on 100% working interest, as detailed on BBC's Exhibit 18 admitted into evidence. Said costs are deemed justified, fair and reasonable.

21. A copy of the Request was mailed, postage pre-paid, certified with return receipt requested, and properly addressed, to all production interest owners in the Drilling Unit to their last addresses disclosed by the appropriate BIA and County realty records, and to the supervisory governmental agencies. Copies of return receipts, evidencing receipt or attempted delivery of all such mailing, were duly filed with the Board, including a return receipt reflecting delivery to Bonanza.

22. Notice of the filing of the Request and of the hearing thereon was duly published in the Salt Lake Tribune and Deseret Morning News on July 3, 2011, and in the Uintah Basin Standard on July 5, 2011.

23. The vote of the Board members present in the hearing and participating in this Cause was unanimous (6-0) in favor of granting the Request.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place and purpose of the hearing was properly given to all parties whose legally protected interests are affected by the Request in the form and manner as required by law and the rules and regulations of the Board and Division.

2. The Board has jurisdiction over all matters covered by the Request and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. §40-6-6.5.

3. BBC has sustained its burden of proof, demonstrated good cause and

satisfied all legal requirements for the granting of the Request.

4. Pursuant to the holding in *Cowling v. Board of Oil, Gas and Mining*, 830 P.2d 220, 226 (Utah 1991), the 139 Series Orders established, upon their respective entry, the parties' correlative rights to production from any well located on the Drilling Unit.

5. Bonanza is deemed a "non-consenting owner," as that term is defined in Utah Code Ann. §40-6-2(11), as relating to the 5-5-46 BTR and 14-5-46 BTR Wells, and is properly deemed to have refused to agree to bear its proportionate share of the costs of the drilling and operation of the said Wells as provided in Utah Admin. Code Rule R649-2-9(1).

6. BBC, as Operator on behalf of itself, Ute Upstream, El Paso, QEP and Croff, is deemed a "consenting owner," as that term is defined in Utah Code Ann. §40-6-2(4), as relating to the 5-5-46 BTR and 14-5-46 BTR Wells.

7. Given the Tribally owned minerals and Tribal lease covering Tract I of the Drilling Unit, a communitization agreement is required to create a proration unit conforming to the 139 Series Orders. An order force pooling Bonanza's interest is required in order for BBC and the other participating working interest owners to receive approval of the communitization agreement by the Federal agencies pursuant to Federal regulatory guidelines.

8. The force pooling of Bonanza's interest in the Drilling Unit retroactive to March 14, 2008, being the date of first production for the 5-5-46 BTR Well, under the

terms and conditions set forth in this Order is just and reasonable, and insures all parties will receive their fair and equitable share of production from the 5-5-46 BTR and 14-5-46 BTR Wells.

ORDER

Based upon the Request, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this Cause is granted.
2. The interest of all parties subject to the jurisdiction of the Board, specifically including Bonanza, in the Drilling Unit are pooled retroactively to March 14, 2008 (being the date of first production of the 5-5-46 BTR Well).
3. Operations on any portion of the Drilling Unit shall be deemed for all purposes to be the conduct of operations upon each separately owned tract in the Drilling Unit by the several owners.
4. Production allocated or applicable to a separately owned tract included in the Drilling Unit shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on it.
5. Each owner shall pay his allocated share of the costs incurred in drilling and operation of the 5-5-46 BTR and 14-5-46 BTR Wells, including, but not limited to, the costs of drilling, completing, equipping, producing, gathering, transporting, processing, marketing, and storage facilities, reasonable charges for administration and

supervision of operations, and other costs customarily incurred in the industry, all to be governed in accordance with the terms and conditions of the joint operating agreements executed with BBC or, only in the case of Bonanza, the joint operating agreement attached hereto to the extent not otherwise inconsistent with this Order.

6. Bonanza is a non-consenting owner and BBC, as Operator of the Drilling Unit on behalf of itself, Ute Upstream, El Paso, QEP and Croff, is a consenting owner, as these terms are utilized in Utah Code Ann. §40-6-6.5, with respect to the 5-5-46 BTR and 14-5-46 BTR Wells. Such parties shall hereinafter be referred to by utilizing such terms.

7. The interest of the Non-Consenting Owner shall be deemed relinquished to the Consenting Owner during the period of payout for the 5-5-46 BTR and 14-5-46 BTR Wells on a well-by-well basis as provided in Utah Code Ann. §40-6-6.5(8). The relinquishment does not constitute a defeasance of title to the interest in the mineral estate, but rather the relinquishment of the revenue stream attributable to the Non-Consenting Owner's allocated share during the period of payout on a well-by-well basis, after payment of the royalty provided herein.

8. The Non-Consenting Owner shall be entitled to receive, subject to the royalty specified herein, the share of the production of the 5-5-46 BTR and 14-5-46 BTR Wells applicable to such owner's interest in the Drilling Unit after the Consenting Owner has recovered the following from the Non-Consenting Owner's share of production on a well-by-well basis: (1) 100% of the Non-Consenting Owner's share of the cost of surface

equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping; (2) 100% of the Non-Consenting Owner's share of the estimated costs of plugging and abandoning the 5-5-46 BTR and 14-5-46 BTR Wells, respectively, which estimated costs are and shall be for each well \$75,000 (based on a 100% working interest); 100% of the Non-Consenting Owner's share of the cost of operation of the 5-5-46 BTR and 14-5-46 BTR Wells, respectively, commencing with first production and continuing until the Consenting Owner has recovered all costs; and (4) a risk compensation award of 300% of the Non-Consenting Owner's share of the costs of staking the location, wellsite preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing, and the cost of equipment in the 5-5-46 BTR and 14-5-46 BTR Wells, respectively, to and including the wellhead connections, as such costs are delineated in Utah Code Ann. §40-6-6.5(4)(d). The Non-Consenting Owner's share of costs is that interest that would have been chargeable to the Non-Consenting Owner had such owner initially agreed to pay such owner's share of the costs of the 5-5-46 BTR and 14-5-46 BTR Wells, respectively, from the commencement of operations. In addition, a reasonable interest rate of prime in effect at JP Chase Morgan plus 1% shall be imposed per Utah Code Ann. §40-6-6.5(4)(d)(iii).

9. The Non-Consenting Owner shall receive a royalty equal to the average weighted landowner's royalty of 18.537358% before 350,000 bbls. of oil are produced on

a well-by-well basis and 21.975673% after 350,000 bbls. of oil are produced on a well-by-well basis. When calculating the division of interest for the Non-Consenting Owner, the average landowner's royalty shall be proportionately reduced in the ratio that the Non-Consenting Owner's interest bears to (1) the total interest in the tract and (2) then further reduced in the ratio that the tract acres bear to the total acreage in the Drilling Unit. The proportionately reduced royalty shall be paid to the Non-Consenting Owner until such time as such Non-Consenting Owner's share of costs, the 300% risk compensation award, and applicable interest charges have been fully recouped on a well-by-well basis, as provided in Utah Code Ann. §40-6-6.5 and in this Order.

10. The Consenting Owner shall furnish the Non-Consenting Owner with monthly statements specifying:

- a. costs incurred;
- b. the quantity of oil or gas produced; and
- c. the amount of oil and gas proceeds realized from the sale of production during the preceding month,

as relating to the 5-5-46 BTR and 14-5-46 BTR Wells respectively.

11. Upon the respective payout of the 5-5-46 BTR and 14-5-46 BTR Wells, the Non-Consenting Owner's relinquished interest in said Well shall automatically revert to it, and the Non-Consenting Owner shall from that time forward own the same interest in the Well and the production from it, and shall be liable for the further costs of operation, as if such owner had participated in the initial drilling and completion operations.

12. Payout occurs when the Consenting Owner has recouped from the

Non-Consenting Owner the costs and expenses of drilling and completing the respective Well, together with the risk compensation award (non-consent penalty) and interest, as provided for in Paragraph 8.

13. In any circumstance when the Non-Consenting Owner has relinquished such owner's share of production to the Consenting Owner or at any time fails to take such owner's share of production in-kind, when such owner is entitled to do so, the Non-Consenting Owner is entitled to an accounting of the oil and gas proceeds applicable to such owner's relinquished share of production; and payment of the oil and gas proceeds applicable to that share of production not taken in-kind, net of costs.

14. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. §63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

15. This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. §63G-4-208 and Utah Administrative Code Rule R641-109.

16. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. §63G-4-208(e) - (g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with

the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. §§63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. §63G-4-302, entitled, “Agency Review - Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of

signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of the month.

Id. See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. §63G-4-302 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

17. The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

18. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

DATED this 22 day of August, 2011.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: James T. Jensen
James. T. Jensen, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER for Docket No. 2011-013, Cause No. 139-86 to be mailed with postage prepaid, this 25th day of August, 2011, to the following:

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James C. Reeder
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Beverly Hills, CA 90210-5402

Carman Family Investment Company
P.O. Box 2707
St. George, UT 84771

Falcon Royalties LLC [on behalf of the
Assignors named in that Certain Quit Claim
Deed dated effective September 1, 2005 and
recorded on February 20, 2007 in Book
315MR Page 383, Duchesne County Realty
Records, and their successors and assigns]
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U.S. Bank National Association, as Agent
[as Trustee and Beneficiary under Deed of
Trust dated March 9, 2010, as amended and
restated on March 18, 2011, with Ute
Energy Upstream Holdings, LLC, as
Trustor]

Attn: Justin M. Alexander
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DN-CO-T8E
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Rex L. Mezenen
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A handwritten signature in blue ink, reading "Julie Ann Carter", is written over a horizontal line.